

Minutes of the Board of Adjustment meeting held on Monday, June 13, 2011, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Roger Ishino, Vice-Chair  
Rosi Haidenthaller  
Joyce McStotts  
Travis Nay  
Chad Wilkinson, Community Development Planner  
Tim Tingey, Community & Economic Development Director  
G.L. Critchfield  
Citizens

Excused: Preston Olsen, Chair

The Staff Review meeting was held from 5:15 to 5:30 p.m. The Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

Roger Ishino explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and is based on state outlined criteria, and that financial issues are not considered a hardship.

Roger Ishino recognized Travis Nay, a new member to the Board of Adjustment.

#### APPROVAL OF MINUTES

Rosi Haidenthaller made a motion to approve the minutes from May 9, 2011 as written. Joyce McStotts seconded the motion.

A voice vote was made. The motion passed 4-0.

#### CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

#### CASE #1430 – WILLIAM GREEN – 223 West Winchester Street – Project #11-20

William Green was the applicant present to represent this request. Chad Wilkinson reviewed the location and request to eliminate the requirement to construct a masonry wall at the south property line. The Planning Commission approved a conditional use permit allowing construction of a coffee and shaved ice business on the site on September 2, 2010. An existing residence also exists on the property. As a condition of approval, the applicant was required to install a 6-foot high masonry wall in accordance with the requirements of the R-N-B zoning district. The applicant has requested that the requirement be waived based on the location of existing utilities in the area. The application was previously reviewed by the Board at their April 11, 2011 wherein the applicant requested that consideration of the item be continued to provide additional time to locate the private sewer lateral. The applicant submitted additional information at the Board's May 9, 2011 hearing and the item was continued one additional month in order for staff to review the submitted information. Staff has reviewed the additional information and has visited the site and observed the location of the sewer line as identified by the plumbing professional hired by the applicant. Based on the location indicated on-site staff has determined the approximate location of the sewer line. It is evident that the distance between the sewer line and the south property line increases

as the line extends to the west. This is unique and typically the lines run perpendicular to the property line. The City Water & Sewer Division has indicated that it is necessary to maintain a minimum distance of 4 feet for maintenance. The line is fairly deep and the invert elevation at the manhole in the street is 11 feet. As shown on the site plan, the line is approximately 6 feet from the existing fence line measured at a point 48 feet from the end of the fence at Travis James Lane. This six foot separation is adequate to construct a wall without interfering with the sewer line. Based on the location of the sewer line, it appears that it is possible to construct a portion of the required wall without interfering with the sewer line and the eastern 40 feet of the wall possibly have a variance or have some type of fencing such as vinyl or wood fence.

William Green, 223 West Winchester Street, stated that the water line has been overlooked. Mr. Green stated that a water line also parallels the sewer lateral 6 feet to the south. Mr. Green indicated that 6 feet below the green line on the exhibit there is an existing water line. He stated that logically there would need to be an easement area from the water line which increases the amount of obscured land along the property line. He stated that the easement obscures more than the 40 foot length.

Chad Wilkinson stated that he spoke with the Water and Sewer Superintendent about the water line issue who indicated that water lines don't pose the same constraint for maintenance as a sewer line does. The water lines are a pressurized system and are a little bit easier to access and usually not as deep and therefore the Water Department is not as concerned about the water line as the sewer line. The Water and Sewer Department's recommendation was to grant a variance based on the sewer line location but that the water line does not need a variance.

Mr. Green commented that there is an existing wood fence behind his residence adjacent to the residential neighbor and he felt this area does not warrant having to install a solid masonry wall. He stated if sometime in the future his property is sold to a business and the home is demolished and replaced with a building, it would make sense at that time to construct a solid masonry wall.

Joyce McStotts comment about the wooden fence falling down. Mr. Wilkinson responded that this wooden fence is the same fence that Mr. Green is requesting to retain. He clarified that the comment regarding the wooden fence falling down was made from the property owner to the south. The brick wall is only on the rear portion of the property and the front 40 feet of the property would need to be replaced with solid fencing. Mr. Wilkinson stated that the city's fencing regulations require a clear vision area for corner properties and allows a 3 foot height for solid fencing in some instances.

Mr. Wilkinson explained that the intent of the recommended condition is that the fence be brought into conformance with height and setback whether a variance is granted and whether it is for a solid fence or a wood fence.

Bill Green stated the wooden fence in question is not his fence and belongs to the property owner to the south and the neighbor may be unaware of this fence ownership. He stated that he is not responsible for maintaining any of the fence along the southern boundary and belongs to the adjacent property fence. Mr. Green stated the neighbor could be referring to his other wooden fence but has no bearing on this variance application.

Roger Ishino clarified that the staff recommendation is for a 40 foot length of the fence, which is a partial variance.

Rosi Haidenthaller made a motion to grant the variance for the eastern 40 feet of required masonry wall as recommended by staff, subject to construction of a solid fence in the area. The applicant needs to abide by the code for fencing in this 40 foot area and that the fence be a solid fence which provides sufficient buffer between the business and the residential zoning. Seconded by Travis Nay.

Call vote recorded by Chad Wilkinson.

A Mr. Nay

A Ms. Haidenthaller

A Ms. McStotts

A Mr. Ishino

Motion passed 4-0.

Joyce McStotts made a motion to approve the Findings of Fact. Seconded by Travis Nay.

A voice vote was made. The motion passed 4-0.

#### ECONOMIC DEVELOPMENT REPORT

Tim Tingey, Director of Community & Economic Development, stated the zoning ordinance for the Murray City Center District was approved in March 2011, by the City Council along with the Design Guidelines. The design elements include buildings up close to the street with windows and also includes a component for sustainability. Density is an important factor in the MCCD with a minimum height standards on the west side of State Street rather than a height maximum and reduced parking standards. The minimum height is four-stories or 40 feet. He stated this downtown area is also part of the redevelopment area and has been in place since 1982 and is referred to as the Central Business District "CBD" Redevelopment Area. This project area creates the funding utilized to help improve infrastructure and provides incentives regarding infrastructure work and parking, etc. to assist in redeveloping the area and bringing business in. He stated this project area was due to end in 2014 which would also end opportunities to utilize tax increment for new redevelopment. Therefore, negotiations were conducted with the taxing entity committee and the City Council. The Taxing Entity Committee includes representatives from the school district, county, state school board and other taxing entities. The negotiations have taken a couple years in requesting an extension and expansion of the "CBD" area from Poplar Street to the Trax and increase the time extension of 20 years. It is very difficult to get an expansion and a time extension, especially for 20 years and this is a great accomplishment for the future of the Murray City Center District. Mr. Tingey reviewed the boundary area of the CBD. He stated that business recruitment has begun and there is a bank that is interested in relocating to this area. There have been discussions with the Vice-President of the Operations for the University of Utah in regards to having a mid-valley facility, hotel groups, and with an aggressive medical office facility. With these proactive efforts and

with the recent changes, it is anticipated there will be new development in the downtown area. The medical office group would like to build a four-story medical office building with LEED standards and possibly underground parking. Gerding Edlen, the consultants for this downtown area, are starting to re-look at the numbers because some of the financing opportunities are loosening up. This area is also a redevelopment agency area which offers tax increment financing which allows for any increase in value, for those taxes to be reinvested into the area for infrastructure or improvements to help facilitate development.

The City purchased property at the south west corner of 4800 South State Street. The Murray Journal recently had an article showing this plan with a performing arts facility at this location. He stated there were 13 public input meetings held for this process.

Mr. Tingey stated that he recently attended the ICSC, a retail real estate convention, in Las Vegas where he met with four hotel groups, three of which have a lot of interest in locating in the downtown area and close to the hospital. He stated a medical office group is also interested in developing a office building on Box Elder Street and the Trax line.

Mr. Tingey stated that the Fireclay Villages (668 unit apartments and 100,000 sq.ft. of commercial space) are moving forward. The city has been working closely with the developer on agreements for the bridge, on the agreements with UTA regarding financing and obtaining building permits.

Mr. Tingey stated that the Birkhill Apartments is also on a fast track process for Phase 1 of this development which includes 137 units, a five-story facility, including a community center with structured parking. Phase 2 of this development will have 65 units, five-story facility; Phase 3 has 109 units and 36,000 sq.ft. commercial space. This is anticipated to start construction in July, but there are many issues involving the Redevelopment Agency and the Development Agreement that need to be resolved prior to this project moving forward.

Travis Nay asked the percentage of low income apartments for this area. Mr. Tingey responded that the Fireclay Villages will have 268 of the 668 units as low income apartments. The Birkhill Apartments has approximately 60 units for low income.

Mr. Tingey stated that Hamlet Development has sold their lower level commercial space of 11,000 sq.ft. to Reliable Controls Engineering and the Utah Food Industry Association. The Development Agreement is being revised to allow these owners.

Mr. Tingey stated that Fashion Place Mall has really got some exciting changes. The H & M Group will be locating their store in November. Crate & Barrel will also be opening at Fashion Place Mall in November and two new restaurants have recently been announced, The BRIO Tuscan Grille and Red Rock Place, opening late fall and summer. An Apple Store will also be coming to the Mall.

Mr. Tingey stated Larry H. Miller Toyota dealership has opened. The Honda dealership has started the demolition and is scheduled to be open in December 2011. The property for Murdock Hyundai has been purchased from Larry Miller dealership at 4600 South State (apx). The BMW dealership has also submitted for a building permit for their new Mini Cooper store.

Rosi Haidenthaller asked about the hotel that was potentially locating on 5300 South east of State Street. Mr. Tingey explained that the hotel on 5300 South just east of State Street is still being negotiated. The Galleria site is currently being looked at by a couple of developers and has been foreclosed on by a bank. In-N-Out Burger is no longer coming to Murray and will have a facility in Midvale. This was as a result of the market and costs associated with development of the Murray site as opposed to the Midvale site.

Rosi Haidenthaller asked about the parking and traffic for Fashion Place Mall. Mr. Tingey responded that the mall does have adequate parking per the municipal code. There is overflow parking just to the north of 6100 South that the employees park during the busy times such as Christmas time. There are currently no plans for a parking structure. There will be some minor reconfiguration along State Street to allow for some drop off and pick up space.

Mr. Tingey stated that he would prefer to postpone discussion on the Board of Adjustment Duties (agenda item #5) until next month when a full quorum is in attendance.

Meeting adjourned.

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Tim Tingey  
Director of Community & Economic Development